

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No.: 03-CR-10362-WGY
	)	
FABIAN RUIZ	)	
_____	)	

**FABIAN RUIZ' MOTION FOR JUDGMENT OF ACQUITTAL**

Defendant, Fabian Ruiz, moves pursuant to Rule 29© that this Court enter a judgment of acquittal with respect to the Superseding Indictment on the following grounds:

1. Drug Quantity: The jury verdict of a drug quantity in excess of 100 kg of marijuana was against the weight of the evidence. The government presented no evidence with respect to the majority of the 27 bales and therefore the lack of evidence cannot give rise to finding beyond a reasonable doubt that the drug quantity was in excess of 100 kg. or that the substance in those bales contained marijuana. In addition, the testing of small samples from the minority of the 27 bales was presumptive and the government's expert testified that she would not offer an opinion to a degree of scientific certainty without conducting a conclusory test. Because such a test was not conducted, a jury verdict on the issue was against the weight of the evidence. Further, the samples provided to the government's expert from the DEA had been commingled corrupting the integrity of the expert's test. If one of the eleven samples contained marijuana it would contaminate the remaining samples and pollute the contents of each individual sample. Thus, the government did not demonstrate beyond a reasonable doubt that more than one bale contained marijuana.

2. Conspiracy: The jury verdict on the conspiracy charge was against the weight of the evidence. Neither Torres nor Sugar provided sufficient testimony of the existence of an agreement with Ruiz.

WHEREFORE Ruiz requests that this Court allow his Motion for Acquittal.

**RUIZ REQUESTS A HEARING ON THE WITHIN MOTION**

Fabian Ruiz,

By his attorney,

/s/ Valerie S. Carter  
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DATED: February 9, 2005

CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2005 a true copy of the above document was served upon Cynthia Lie, the attorney of record via ECF filing.

/s/ Valerie S. Carter  
Valerie S. Carter, Esq.

